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Jeffrey P. Snover

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EXAMINER

WOOD, WILLIAM H

ART UNIT

PAPER NUMBER

2193

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/693,409 | <b>Applicant(s)</b><br>SNOVER ET AL. |  |
|                              | <b>Examiner</b><br>William H. Wood   | <b>Art Unit</b><br>2193              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 7-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims 1 and 7-16 are pending and have been examined.

#### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 9-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 9 recites “computer-readable medium” which according to the originally filed disclosure encompasses “communication media” defined as including a “carrier wave” or “modulated data signal” (Specification: page 7, lines 3-15). Electromagnetic signals are non-statutory. Appropriate correction is required and may include replacing the phrase with “computer-readable storage medium”.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 7-8, 9-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altiris **RapidInstall**, version 3.0, "Release Notes" in view of **Reyna et al.** (US 7,207,031 B2).

Claim 1

**RapidInstall** disclosed in a command line operating environment, a computer-executable method comprising:

executing each command on a command line in a first execution mode or in an alternate execution mode (*page 1, section "Simulated Install –si command line"*), wherein executing the command in the alternate execution mode occurs when the command includes an instruction to execute in the alternate execution mode (*page 1, section "Simulated Install –si command line"*), the alternate execution mode being provided by the command line operating environment (*the RapidInstall environment*)

wherein the instruction to execute in the alternate execution mode comprises a switch, and wherein executing the command in the alternate execution mode further occurs when the command line includes the switch indicating the alternate execution mode (*page 1, section "Simulated Install –si command line"*), and wherein the alternate execution mode visually displays simulated results of executing the command (*page 1, section "Simulated Install –si command line"*).

**RapidInstall** did not explicitly state such that the command being executed on the command line does not incorporate code for extending functionality to execute the command in the alternate execution mode. **Reyna** demonstrated that it was known at

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the time of invention to incorporate additional command functionality external to the command (figure 1, elements 20, 50 and 60; column 3, lines 18-53; different functionality found in different nodes). It would have been obvious to one of ordinary skill in the art at the time of invention to divide the functionality of a command, such as the one shown in **RapidInstall** between one location and another location as found in **Reyna's** teaching, thus providing extended or additional functionality external to the command or "not incorporating code for extending functionality to execute the command". This implementation would have been obvious because one of ordinary skill in the art would be motivated to structure a command line environment in such a node and tree structure to improve the command line's efficiency and ease of modification and extension (column 1, lines 56-62).

Claim 7

**RapidInstall** disclosed the computer-executable method of claim 6, wherein the switch comprises "whatif" (*nonfunctional descriptive material reads upon **RapidInstall** page 1, section "Simulated Install -si command line"; "whatif" is unique label just like "-si"*) and the alternate execution mode visually displays simulated results of executing the command (*see claim 3*).

Claim 8

**RapidInstall** disclosed the computer-executable method of claim 1, wherein the instruction comprises a call to a method provided by the command line operating

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environment (*page 1, section “Simulated Install –si command line”; the RapidInstall environment*).

Claims 9-10 and 16

The limitations of claims 9-10 and 16 are substantially the same as for claims 1-3, 6 and 8 and as such are rejected in the same manner.

Claim 11

The limitations of claims 11 are substantially the same as for claim 7 and as such are rejected in the same manner.

Claim 12

**RapidInstall** disclosed the computer-readable medium of claim 9, wherein the task comprises a stand-alone executable command (*page 1, section “Simulated Install –si command line”*).

5. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altiris **RapidInstall**, version 3.0, “Release Notes” in view of **Reyna** et al. (US 7,207,031 B2) in view of **Murthy** et al. (USPN 7,103,590).

Claims 13-15

**RapidInstall** did not explicitly state *wherein the task comprises a pipeline of executable commands, each executable command operating in a separate process; wherein the task comprises a pipeline of executable commands, each executable command operating in the same process; or wherein each executable command comprises an*

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*instantiated class*. **Murthy** demonstrated that it was known at the time of invention to make use of multi-process/threaded systems; pipelining processes (*column 6, lines 47-52; column 8, lines 11-13*) and objected oriented class/object technology (*column 1, lines 6-9*). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **RapidInstall** system with each of the above technologies to create a series of pipelined commands operating on either one process or multiple processes and using class instantiation. This implementation would have been obvious because one of ordinary skill in the art would be motivated: to increase flexibility (of design and implementation) through the use of discrete pipelineable commands; to increase workload throughput through multiple processes and parallelization (*column 2, lines 11-17*); and to increase ease of software maintenance with object oriented technology.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1 and 7-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Tuesday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis A. Bullock Jr. can be reached on (571)-272-3759. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

/William H. Wood/  
William H. Wood  
Primary Examiner, Art Unit 2193  
September 19, 2008